

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CLIFTON B. HENNINGTON

§

VS.

§

CIVIL ACTION NO. 9:20cv169

FREDRIC EDWARDS

§

MEMORANDUM OPINION AND ORDER

Clifton B. Hennington, an inmate confined in the Beto Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brings this civil rights action against Fredric Edwards, a captain at the Beto Unit.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue is controlled by 28 U.S.C. § 1391. When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

Plaintiff complains of events which occurred at the Beto Unit, which is located in Anderson County. In addition, the defendant appears to reside in Anderson County. Plaintiff's claims concerning such events therefore arose in Anderson County. Pursuant to 28 U.S.C. § 124, Anderson County is located in the Eastern District of Texas. As a result, venue regarding plaintiff's claims is proper in this court.

However, while Anderson County is in the Eastern District of Texas, it is in the Tyler Division, rather than the Lufkin Division. None of the events complained of in this lawsuit occurred within the Lufkin Division. Nor does the defendant reside in the Lufkin Division.

When a case is filed in the wrong division, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28

U.S.C. § 1406(a). Accordingly, plaintiff's claims will be transferred to the Tyler Division of this court.

ORDER

For the reasons set forth above, it is **ORDERED** that this matter is transferred to the Tyler Division of this court.

SIGNED this 24th day of September, 2020.



Zack Hawthorn
United States Magistrate Judge